

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

METODIO CRUZ GALLEGOS, SR,

Plaintiff,

v.

STARR OILFIELD SERVICES, LLC and
JEFFREY EMMETT SISTRUNK

Defendants.

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CIVIL ACTION NO. 5:21-CV-439

**DEFENDANTS JEFFREY EMMETT SISTRUNK AND
STARR OILFIELD SERVICES, LLC'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Pursuant to 28 U.S.C. §§1441 and 1446, Defendant Jeffrey Emmett Sistrunk files this Notice of Removal to the United States District Court for the Western District of Texas, San Antonio Division, with the consent of Co-Defendant Starr Oilfield Services, LLC (collectively, "Defendants"), and respectfully show the Court as follows:

1. Defendants were sued in the cause styled *Metodio Cruz Gallegos, Sr. v. Starr Oilfield Services, LLC and Jeffrey Emmett Sistrunk*, pending as Cause No. 2020CI22471 in the 224th Judicial District Court of Bexar County, Texas (the "Lawsuit"). The Lawsuit was filed on November 18, 2020, and Defendant Jeffrey Emmett Sistrunk accepted service on April 2, 2021. See Exhibit A, index of documents filed in the state court proceeding. Defendants' removal is timely because this notice is filed within 30 days of service of the initial pleading. See 28 U.S.C. § 1446(b)(1).

2. True and correct copies of all documents filed in the state court proceeding are attached hereto and incorporated herein by reference. See Exhibit A. Defendants reserve the right

to supplement their response with certified copies of documents filed in the state court. Attached as Exhibit B is a list of all counsel of record.

I.
BASIS FOR REMOVAL

3. This case is removable based upon diversity jurisdiction because: (1) there is complete diversity of citizenship among the parties; (2) the amount in controversy exceeds \$75,000; and (3) Defendants are not citizens of the forum state—Texas. 28 U.S.C. §§ 1332, 1441; *Smallwood v. Ill. Cent. R.R. Co.*, 385 F.3d 568, 572 (5th Cir. 2005).

4. A removing defendant is required to allege that diversity of citizenship existed at the time of the filing of the suit and at the time of removal. *In re Allstate Ins. Co.*, 8 F.3d 219, 221 (5th Cir. 1993). Plaintiff Metodio Cruz Gallegos, Sr. (“Plaintiff”) is a natural person and was a citizen and resident of Texas at all relevant times, including at the time the Lawsuit was filed and at the time of the filing of this Notice of Removal. *See* Pl.’s Orig. Pet. ¶3.1; *see* Pl.’s First Am. Pet. ¶3.1.

5. Defendant Starr Oilfield Services, LLC is a limited liability company organized under the laws of the state of Oklahoma with its principle place of business in Oklahoma. At all relevant times, including the time the Lawsuit filed and at the time of the filing of this Notice of Removal, Defendant Starr Oilfield Services, LLC was a citizen and resident of Oklahoma. For purposes of diversity jurisdiction, a limited liability company has the same citizenship as the citizenship of its members. *Tewari De-Ox Systems, Inc. v. Mountain States/Rosen, Ltd.*, 757 F.3d 481, 483 (5th Cir. 2014). Therefore, for diversity purposes, Defendant’s citizenship is based on the citizenship—or domicile—of its members. *See Deep Marine Tech., Inc., v. Conmaco/Rector, L.P.*, 515 F. Supp. 2d 760, 767 (S.D. Tex. 2007) (“The citizenship of an individual is synonymous with his domicile”).

6. Defendant Jeffrey Emmett Sistrunk, a natural person, is domiciled in, and citizen of, Mississippi. *See* Pl.’s Orig. Pet. ¶3.3; *see* Pl.’s First Am. Pet. ¶3.3. Accordingly, Jeffrey Emmett Sistrunk is a citizen of Mississippi and there is complete diversity between Plaintiff and Defendant.

7. Plaintiff’s live pleading includes an assertion that Plaintiff is entitled to, and seeks to recover, monetary relief in excess \$1,000,000 from Defendants in this action for actual damages, past and future lost wages, past and future medical expenses, past and future pain and suffering, past and future mental anguish, past and future impairment, past and future loss of household services, attorney’s fees and expenses, and punitive damages. *See* Pl.’s 1st Amd. Pet. ¶2.1. Plaintiff’s pleading seeking more than \$1,000,000 conclusively establishes that the amount in controversy exceeds the \$75,000 minimum amount in controversy necessary for this Court to exercise its diversity jurisdiction. 28 U.S.C § 1446(c)(2); *Lopez v. Trujillo*, 475 B.R. 550, 555 (N.D. Tex. 2012) (“For diversity purposes, the amount in controversy is determined by the amount sought on the face of the plaintiff’s pleadings, so long as the plaintiff’s claim is made in good faith”).

8. Accordingly, Defendants have shown the Plaintiff is a citizen of Texas, Defendants are citizens of Oklahoma and Mississippi, complete diversity exists, and the amount in controversy exceeds the Court’s jurisdictional threshold. Thus, removal is proper on the basis of diversity jurisdiction.

II.

INDEX OF FILINGS

9. A completed civil cover sheet and a supplemental civil cover sheet are being filed concurrently with this Notice of Removal. Further, the following documents are attached hereto as exhibits:

- Exhibit “A” An index identifying all documents filed in the state court action and indicating the date the documents were filed.
- Exhibit “B” List of All Counsel of Record.
- Exhibit “C” A copy of the docket sheet in the state court action.
- Exhibit “D” Plaintiff’s Original Petition in the state court action.
- Exhibit “E” The Citations issued in the state court action.
- Exhibit “F” The Return of Services filed in the state court action.
- Exhibit “G” Defendant Starr Oilfield Services, LLC’s Original Answer
- Exhibit “H” Defendant Jeffrey Emmett Sistrunk’s Original Answer

10. Defendants are filing with the Clerk of the 224th District Court of Bexar County, Texas, the Notice required by law, and a true and correct copy of this Notice of Removal, simultaneously with the filing of this Notice of Removal.

11. This Notice of Removal will be provided to Plaintiff by service of a copy upon his counsel of record, in accordance with 28 U.S.C. §1446(d). Further, a copy of this Notice of Removal will be filed with the District Clerk of Bexar County, in accordance with 28 U.S.C. §1446(d).

Therefore, Defendants Jeffrey Emmett Sistrunk and Starr Oilfield Services, LLC respectfully pray that this case be removed to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

/s/ Stephanie J. Roark

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**ATTORNEYS FOR DEFENDANTS
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JEFFREY EMMETT SISTRUNK**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM-ECF system on the 3rd day of May, 2021.

/s/ Stephanie J. Roark